IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

R.S.A. No. 2310 of 2006

DATE OF DECISION : 20.04.2007

Gurbachan Singh

.... APPELLANT

Versus

Gram Panchayat, Village Chack Raju Singh, Tehsil and District Hoshiarpur through its Sarpanch

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. M.S. Kang, Advocate,
for the appellant.

This is plaintiff's Regular Second Appeal against the judgments and decree passed by both the courts below, dismissing his suit for permanent injunction.

I have heard counsel for the appellant and gone through the impugned judgments and decree.

In this case, the plaintiff filed a suit for permanent injunction against the respondent-Gram Panchayat restraining it from discharging the dirty water of the daily use in the land marked as ABCD through the newly constructed drain marked as XYZX in the site plan. It is alleged that the land mark ABCD is situated near the house of the plaintiff, which is a low lying area and if the dirty water of the daily use is allowed to be discharged in that land, it will cause permanent nuisance to the plaintiff. It is further alleged that the members of the Gram Panchayat are inimical towards the plaintiff, therefore, they have carved out the disputed drain for discharging dirty water with an intention to create nuisance.

The respondent-Gram Panchayat contested the aforesaid suit alleging therein that after passing the necessary resolutions and obtaining the prior permission from the authorities, it had constructed the pacca drain

for outflow of the daily water of the village. It is alleged that water of the drain neither damaged the house or land of the plaintiff nor it caused any type of nuisance. It is further alleged that for the last 100 years, the water is flowing from the said land and the Panchayat has only constructed the pacca water course/drain for proper discharge of the water.

Both the courts below, after taking into consideration the evidence led by the parties, came to the conclusion that the aforesaid drain was constructed by the Gram Panchayat from the funds provided by the Government and that too after passing the necessary resolutions. It has also been found that when the drain was constructed, no objection was raised by the plaintiff. It has been further held by the courts below that the land ABCD does not belong to the plaintiff-appellant. It has been found that the construction of drain by the Gram Panchayat is for the betterment of the public at large. It has also been held that the plaintiff-appellant has not made out a case for grant of permanent injunction, as no nuisance is going to be caused to him.

After hearing the arguments of learned counsel for the appellant and going through the impugned judgments, I am of the opinion that a pure finding of fact has been recorded by both the courts below, after appreciating the evidence available on record. No illegality, infirmity or perversity has been pointed out by counsel for the appellant, in the said finding of fact. No substantial question of law is involved in this appeal.

Dismissed.

April 20, 2007 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**